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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2011-536

11 **TERI LYN RUSSELL, AKA TERI LYN**
12 **MUECKE**
13 **6315 Tallman Avenue**
14 **Bakersfield, CA 93308**
15 **Registered Nurse License No. 668921**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

16 **FINDINGS OF FACT**

17 1. On or about December 15, 2010, Complainant Louise R. Bailey, M.Ed., RN, in her
18 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
19 Consumer Affairs, filed Accusation No. 2011-536 against Teri Lyn Russell, aka Teri Lyn Muecke
20 ("Respondent") before the Board of Registered Nursing.

21 2. On or about November 8, 2005, the Board of Registered Nursing ("Board") issued
22 Registered Nurse License No. 668921 to Respondent. The Registered Nurse License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on July 31,
24 2011, unless renewed.

25 3. On or about December 15, 2010, Respondent was served by Certified and First Class
26 Mail copies of the Accusation No. 2011-536, Statement to Respondent, Notice of Defense,
27 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
28 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions

1 Code section 136, is required to be reported and maintained with the Board. Respondent's
2 address on record with the Board was and is:

3 **6315 Tallman Avenue**
4 **Bakersfield, CA 93308.**

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and Business & Professions Code section 124.

7 5. On or about December 30, 2010, the aforementioned documents sent via Certified
8 Mail were returned by the U.S. Postal Service marked, "Moved Left No Address. Unable to
9 Forward. Return to Sender." On or about December 22, 2010, the aforementioned documents sent
10 via First Class Mail were returned by the U.S. Postal Service marked, "Undeliverable as
11 addressed – no forwarding order on file."

12 6. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the respondent
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts
15 of the accusation not expressly admitted. Failure to file a notice of defense shall
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
17 may nevertheless grant a hearing.

18 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
19 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2011-
20 536.

21 8. California Government Code section 11520 states, in pertinent part:

22 (a) If the respondent either fails to file a notice of defense or to appear at the
23 hearing, the agency may take action based upon the respondent's express admissions
24 or upon other evidence and affidavits may be used as evidence without any notice to
25 respondent.

26 9. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
as well as taking official notice of all the investigatory reports, exhibits and statements contained
therein on file at the Board's offices regarding the allegations contained in Accusation No. 2011-

1 536, finds that the charges and allegations in Accusation No. 2011-536, are separately and
2 severally true and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$15,203.00 as of January 19, 2011.

6 **DETERMINATION OF ISSUES**

7 1. Based on the foregoing findings of fact, Respondent Teri Lyn Russell, aka Teri Lyn
8 Muecke has subjected her Registered Nurse License No. 668921 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
11 Nurse License based upon the following violations alleged in the Accusation which are supported
12 by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.:

13 a. **Gross Negligence.** Respondent is subject to disciplinary action under Code section
14 2761, subdivision (a)(1), on the grounds of gross negligence as defined by California Code of
15 Regulations, title 16, section 1442, in that Respondent failed to exercise ordinary precaution in a
16 single situation which the nurse knew, or should have known, could have jeopardized the client's
17 health or life. The circumstances surrounding the grossly negligence conduct are as follows:

18 i. On or about September 22, 2009, Respondent was employed as a staff nurse at
19 the Bakersfield Memorial Hospital.

20 ii. On that date, staff noticed that while on her shift as a staff nurse, Respondent
21 appeared hyperactive, had exaggerated and jerky movements, and was speaking
22 rapidly.

23 iii. On or about that same date, Respondent provided a biological sample for a drug
24 screen.

25 iv. The drug screen indicated that Respondent had ingested Methamphetamine,
26 Amphetamine, and Morphine.

27 v. On or about September 24, 2009, Respondent was terminated from her
28 employment at Bakersfield Memorial Hospital.

1 **b. Use of Methamphetamine.** Respondent is subject to disciplinary action under
2 Code section 2762, subdivision (b), in that Respondent used a controlled substance, to wit,
3 methamphetamine, in a manner dangerous or injurious to herself, any other person, or the public
4 or to the extent that such use impairs his or her ability to conduct with safety to the public the
5 practice authorized by his or her license. The circumstances are more particularly described in
6 paragraph 3, subparagraphs (a)(i) through (a)(v), inclusive, above, and herein incorporated by
7 reference.

8 **OTHER DISCIPLINARY CONSIDERATIONS**

9 1. On or about December 28, 2009, Respondent was terminated from the Maximus
10 Diversion Program after she was deemed a public safety risk because she admitted to using
11 methamphetamine, failed to comply with the diversion entry agreement terms and conditions, and
12 failed to attend chemical dependency treatment.

13 **ORDER**

14 IT IS SO ORDERED that Registered Nurse License No. 668921, heretofore issued to
15 Respondent Teri Lyn Russell, aka Teri Lyn Muecke, is revoked.

16 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
17 written motion requesting that the Decision be vacated and stating the grounds relied on within
18 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
19 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

20 This Decision shall become effective on April 18, 2011.

21 It is so ORDERED March 16, 2011.

22 *Glenn K. Reeves*
23 _____
24 FOR THE BOARD OF REGISTERED NURSING
25 DEPARTMENT OF CONSUMER AFFAIRS

Exhibit A

Accusation Case No. 2011-536

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Attorney for Complainant

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7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2011-536

12 **TERI LYN RUSSELL, AKA TERI LYN**
13 **MUECKE**
14 **6315 Tallman Avenue**
15 **Bakersfield, CA 93308**
16 **Registered Nurse License No. 668921**

A C C U S A T I O N

Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about November 8, 2005, the Board of Registered Nursing issued Registered
23 Nurse License Number 668921 to Teri Lyn Russell, aka Teri Lyn Muecke ("Respondent"). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on July 31, 2011, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing ("Board"),
28 Department of Consumer Affairs, under the authority of the following laws. All section
references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

STATUTORY PROVISIONS

5. Section 118, subdivision (b) of the Code provides, in pertinent part:

“(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

7. Section 2761 of the Code provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions....”

8. Section 2762 of the Code provides, in pertinent part:

“In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

...

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license..."

3 REGULATORY PROVISIONS

4 9. California Code of Regulations, title 16, section 1442, states:

5 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from
6 the standard of care which, under similar circumstances, would have ordinarily been exercised by
7 a competent registered nurse. Such an extreme departure means the repeated failure to provide
8 nursing care as required or failure to provide care or to exercise ordinary precaution in a single
9 situation which the nurse knew, or should have known, could have jeopardized the client's health
10 or life."

11 CONTROLLED SUBSTANCES

12 10. "Methamphetamine" is designated as a class II controlled substance by Health and
13 Safety Code section 11055(d)(2) and is a dangerous drug pursuant to Business and Professions
14 Code section 4022.

15 COST RECOVERY

16 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licentiate found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 FIRST CAUSE FOR DISCIPLINE

21 (Gross Negligence)

22 12. Respondent is subject to disciplinary action under Code section 2761, subdivision
23 (a)(1), on the grounds of gross negligence as defined by California Code of Regulations, title 16,
24 section 1442, in that Respondent failed to exercise ordinary precaution in a single situation which
25 the nurse knew, or should have known, could have jeopardized the client's health or life. The
26 circumstances surrounding the grossly negligence conduct are as follows:

27 a. On or about September 22, 2009, Respondent was employed as a staff nurse at the
28

1 Bakersfield Memorial Hospital.

2 b. On that date, staff noticed that while on her shift as a staff nurse, Respondent
3 appeared hyperactive, had exaggerated and jerky movements, and was speaking rapidly.

4 c. On or about that same date, Respondent provided a biological sample for a drug
5 screen.

6 d. The drug screen indicated that Respondent had ingested Methamphetamine,
7 Amphetamine, and Morphine.

8 e. On or about September 24, 2009, Respondent was terminated from her
9 employment at Bakersfield Memorial Hospital.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Use of Methamphetamine)**

12 13. Respondent is subject to disciplinary action under Code section 2762, subdivision
13 (b), in that Respondent used a controlled substance, to wit, methamphetamine, in a manner
14 dangerous or injurious to herself, any other person, or the public or to the extent that such use
15 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
16 license. The circumstances are more particularly described in paragraph 12, subparagraphs (a)
17 through (e), inclusive, above, and herein incorporated by reference.

18 **OTHER DISCIPLINARY CONSIDERATIONS**

19 14. On or about December 28, 2009, Respondent was terminated from the Maximus
20 Diversion Program after she was deemed a public safety risk because she admitted to using
21 methamphetamine, failed to comply with the diversion entry agreement terms and conditions, and
22 failed to attend chemical dependency treatment.

23 **PRAYER**

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Board of Registered Nursing issue a decision:

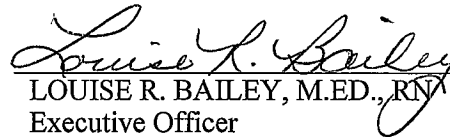
26 1. Revoking or suspending Registered Nurse License Number 668921, issued to Teri
27 Lyn Russell, aka Teri Lyn Muecke;

1 2. Ordering Teri Lyn Russell, aka Teri Lyn Muecke to pay the Board of Registered
2 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
3 Business and Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
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7 DATED: _____
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12/15/10


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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